

1 THE LAW OFFICES OF RANDOLPH H. GOLDBERG  
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9  
10 **UNITED STATES BANKRUPTCY COURT**  
11 **DISTRICT OF NEVADA**

12 In re:

13 **EARL FARINAS &**  
14 **VERONICA FARINAS**  
15 Debtor(s).

Chapter 13 Proceedings  
Case No.: 09-13601-LBR  
Trustee: RICK YARNALL

Date: 1/07/2010  
Time: 2:30 PM

16 **MOTION TO VALUE COLLATERAL, "STRIP OFF" AND MODIFY RIGHTS**  
17 **OF WELLS FARGO BANK NV NA PURSUANT TO 11 U.S.C. §506(a) AND §1322**

18 Comes Now the Debtor, **EARL AND VERONICA FARINAS** (hereinafter the "debtor"),  
19 by and through THE LAW OFFICES OF RANDOLPH H. GOLDBERG, and respectfully moves  
20 this Court pursuant to 11 U.S.C. §506(a), and §1322, and Bankruptcy Rules 3012 and 9014.

21 **STATEMENT OF FACTS**

- 22 1. Debtor filed the instant Chapter 13, Case Number **09-13601** on **MARCH 14,**  
23 **2009.**
- 24 2. As of the date of filing, debtor owned real property located at **6745 COUNCIL**  
25 **HEIGHTS WAY Las Vegas, Nevada 89142** (hereinafter the "Subject Property").
- 26 3. Debtors have obtained a residential appraisal that places the value of the subject  
27 property at **\$232,000.00.**
- 28 4. At the time of filing the instant petition, the Subject Property was subject to

the following liens:

**WELLS FARGO HOME MORTGAGE (First Mortgage): \$286,056.00**

**WELLS FARGO BANK NV NA (Second Mortgage): \$54,633.00**

5. Therefore, on the date the instant bankruptcy was filed, no equity existed in the Subject Property above the claims of WELLS FARGO BANK NV NA

6. **WELLS FARGO BANK NV NA's** claim was wholly unsecured on the petition date and if the Subject Property was sold at auction WELLS FARGO BANK NV NA would receive nothing.

7. Accordingly, the debtor requests that Your Honor find that **WELLS FARGO BANK NV NA's** claim is unsecured and should be reclassified as a general unsecured claim to receive pro rata with other general unsecured creditors through the debtor's chapter 13 plan.

#### LEGAL ARGUMENT

In *In re Zimmer*, 313 F.3d 1220 (9th Cir. 2002), the Court stated that a wholly unsecured lien holder's claim can be modified and reclassified as a general unsecured claim pursuant to 11 U.S.C. §506(a), despite the anti-modification language in §1322(b)(2). Specifically, the Court held:

Section 506(a) divides creditors' claims into "secured...claims" and "unsecured claims." Although the conventional interpretation of "secured" might include any claim in which the creditor has a security interest in the debtor's property, §506(a) makes clear that the status of a claim depends on the valuation of the property. An allowed claim of a creditor secured by a lien on property in which the estate has an interest ... is a secured claim to the extent of the value of such creditor's interest in the estate's interest in such property ... and is an unsecured claim to the extent that the value of such creditor's interest ... is less than the amount of such allowed claim. To put it more simply, a claim such as a mortgage is not a "secured claim" to the extent that it exceeds the value of the property that secures it. Under the Bankruptcy Code, "secured claim" is thus a term of art; not every claim that is

secured by a lien on property will be considered a "secured claim." Here, it is plain that **WELLS FARGO BANK NV NA's** claim for the repayment of its loan is an unsecured claim, because its deed of trust is junior to the first deed of trust, and the value of the loan secured by the first deed of trust is greater than the value of the house.

Accordingly, since **WELLS FARGO BANK NV NA's second** mortgage claim is wholly unsecured (in that there is no extant equity above the first mortgage in the Subject Property), the claim should be reclassified by this Court as a general unsecured claim and share in whatever pro rata distribution is being received. **WELLS FARGO BANK NV NA** should also be stripped of its secured rights under Nevada State Law since no maintainable security interest in the subject property exists.

Furthermore, the Debtor is not required to file an adversary proceeding to strip the lien of its secured status. Debtor may "strip off" **WELLS FARGO BANK NV NA's** consensual lien by motion. See *In re Williams*, 166 B.R. 615 (Bankr.E.D.Va.1994), *In re Fuller*, 255 B.R. 300 (Bankr.W.D.Mich.2000), *In re Hoskins*, 262 B.R. 693 (Bankr.E.D.Mich.2001), *In re King*, 290 B.R. 641 (Bankr.C.D.Ill. 2003), *In re Millspaugh*, 302 B.R. 90 (Bankr.D.Idaho 2003), *Dickey v. Ben. Fin. (In re Dickey)* 293 B.R. 360 (Bankr.M.D.Pa.2003), *In re Hill*, 304 B.R. 800 (Bankr.S.D.Ohio 2003); *In re Sadala* 294 B.R. 180 (Bankr.M.D.Fla.2003), *In re Fisher*, 289 B.R. 544 (Bankr.W.D.N.Y.2003), *In re Robert*, 313 B.R. 545 (Bankr.N.D.N.Y.2004), *In re Bennett*, 312 B.R. 843 (Bankr.W.D.Ky.2004).

### CONCLUSION

Debtors respectfully request that the court:

1. Determine that the first mortgage on the subject property exceeds the value;
2. Determine that the **WELLS FARGO BANK NV NA second** mortgage claim is a

1 wholly unsecured claim and strip the lien from the subject property pursuant to 11  
2 U.S.C. Section 506(a);  
3

4 3. Reclassify the secured claim filed by **WELLS FARGO BANK NV NA** as a  
5 general unsecured claim to be paid pro rata in the general unsecured pool of  
6 Debtor's Chapter 13 Plan.  
7

8 4. For such other and further relief which the Court deems just and proper.

9 DATED this 4 of December, 2009.

10  
11 THE LAW OFFICES OF  
12 RANDOLPH H. GOLDBERG

13 By: /s/RANDOLPH GOLDBERG/s/  
14 RANDOLPH H. GOLDBERG, ESQ.  
15 4000 S. Eastern Avenue, Suite 200  
16 Las Vegas, Nevada 89119  
17 Attorney for Debtor(s)  
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## RESIDENTIAL APPRAISAL SUMMARY REPORT

File No.: 081209

Property Address: 6745 COUNCIL HEIGHTS WAY		City: LAS VEGAS		State: NV Zip Code: 89142	
County: CLARK		Legal Description: LOT 767 OF QUARRY-UNIT 45-1			
Tax Year: 08-09 R.E. Taxes: \$ 3,349.30		Special Assessments: \$ NONE		Assessor's Parcel #: 161-11-212-013	
Current Owner of Record: FARINAS		Borrower (if applicable): N/A		Occupant: <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant <input type="checkbox"/> Vacant <input type="checkbox"/> Manufactured Housing	
Project Type: <input checked="" type="checkbox"/> PUD <input type="checkbox"/> Condominium <input type="checkbox"/> Cooperative <input type="checkbox"/> Other (describe)		HDA: \$ 32.00 per year		<input checked="" type="checkbox"/> per month	
Market Area Name: QUARRY		Map Reference: 57-C3		Census Tract: 4120.0049.23	
The purpose of this appraisal is to develop an opinion of: <input checked="" type="checkbox"/> Market Value (as defined), or <input type="checkbox"/> other type of value (describe)					
This report reflects the following value (if not current, see comments): <input checked="" type="checkbox"/> Current (the Inspection Date is the Effective Date) <input type="checkbox"/> Retrospective <input type="checkbox"/> Prospective					
Approaches developed for this appraisal: <input checked="" type="checkbox"/> Sales Comparison Approach <input type="checkbox"/> Cost Approach <input type="checkbox"/> Income Approach (See Reconciliation Comments and Scope of Work)					
Property Rights Appraised: <input checked="" type="checkbox"/> Fee Simple <input type="checkbox"/> Leasehold <input type="checkbox"/> Leased Fee <input type="checkbox"/> Other (describe)					
Intended Use: THE INTENDED USE OF THIS APPRAISAL REPORT IS FOR THE BANKRUPTCY COURT TO EVALUATE THE PROPERTY THAT IS THE SUBJECT OF THIS APPRAISAL FOR A BANKRUPTCY FILING.					
Intended User(s) (by name or type): THE INTENDED USER IS THE PROPERTY OWNER AND THE BANKRUPTCY ATTORNEY/COURT.					
Client: EARL FARINAS		Address: 6745 COUNCIL HEIGHTS WAY, LAS VEGAS, NV 89142			
Appraiser: TRISTA CATER		Address: LAS VEGAS			
Location: <input type="checkbox"/> Urban <input checked="" type="checkbox"/> Suburban <input type="checkbox"/> Rural		Predominant Occupancy: <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant <input type="checkbox"/> Vacant (0-5%) <input type="checkbox"/> Vacant (>5%)		Present Land Use: One-Unit Housing PRICE \$4000 AGE (yrs) 94 Low NEW 396 High 20 Vacant 10%	
Built up: <input checked="" type="checkbox"/> Over 75% <input type="checkbox"/> 25-75% <input type="checkbox"/> Under 25%		Growth rate: <input checked="" type="checkbox"/> Rapid <input type="checkbox"/> Stable <input type="checkbox"/> Slow		Change in Land Use: <input checked="" type="checkbox"/> Not Likely <input type="checkbox"/> Likely * <input type="checkbox"/> In Process *	
Property values: <input type="checkbox"/> Increasing <input type="checkbox"/> Stable <input checked="" type="checkbox"/> Decreasing		Demand/supply: <input type="checkbox"/> Shortage <input type="checkbox"/> In Balance <input checked="" type="checkbox"/> Over Supply		* To: _____	
Marketing time: <input type="checkbox"/> Under 3 Mos. <input checked="" type="checkbox"/> 3-6 Mos. <input type="checkbox"/> Over 6 Mos.		Market Area Boundaries, Description, and Market Conditions (including support for the above characteristics and trends):		Subject is bounded to the north by Charleston Blvd., to the west by Sloan, and to the south by Desert Inn. The subject is located in the easterly portion of the Las Vegas valley and is approximately 8-9 miles from the downtown business district and "Strip" employment centers. Average access to local public conveniences. Average overall maintenance levels. No detrimental influences at the time of inspection. Sales have decreased in the last year while inventory continues to rise. Foreclosures and short sales are becoming more common in the current market. Sellers must be realistic when pricing properties and be willing to market aggressively. Listing and pending sales are emphasized and only the most current closed sales are considered reliable in this changing market.	
Dimensions: 48 x 104.5		Site Area: 5,016 SQ.FT.		Zoning Classification: R-2	
Zoning Compliance: <input checked="" type="checkbox"/> Legal <input type="checkbox"/> Legal nonconforming (grandfathered) <input type="checkbox"/> Illegal <input type="checkbox"/> No zoning		Are CC&Rs applicable? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown		Have the documents been reviewed? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Ground Rent (if applicable): \$ _____		Highest & Best Use as improved: <input checked="" type="checkbox"/> Present use, or <input type="checkbox"/> Other use (explain)			
Actual Use as of Effective Date: SINGLE FAMILY		Use as appraised in this report: SINGLE FAMILY			
Summary of Highest & Best Use: THE HIGHEST AND BEST USE OF THE SUBJECT PROPERTY AS IMPROVED (OR AS PROPOSED PER PLANS AND SPECIFICATIONS, LAND USES, ETC.) IS AS A SINGLE FAMILY RESIDENCE.					
Utilities: Public <input checked="" type="checkbox"/> Other <input type="checkbox"/>		Off-site improvements: Type <input type="checkbox"/> Public <input type="checkbox"/> Private <input type="checkbox"/>		Topography: BUILT-UP PAD	
Electricity: <input checked="" type="checkbox"/>		Street: ASPHALT		Size: TYPICAL FOR DEVELOPMENT	
Gas: <input checked="" type="checkbox"/>		Curb/Gutter: CONCRETE		Shape: RECTANGULAR	
Water: <input checked="" type="checkbox"/>		Sidewalk: CONCRETE		Drainage: APPEARS ADEQUATE	
Sanitary Sewer: <input checked="" type="checkbox"/>		Street Lights: ADEQUATE		View: RESIDENTIAL	
Storm Sewer: <input type="checkbox"/>		Alluvial: NONE/TYPICAL			
Other site elements: <input checked="" type="checkbox"/> Inside Lot <input type="checkbox"/> Corner Lot <input type="checkbox"/> Cul de Sac <input type="checkbox"/> Underground Utilities <input type="checkbox"/> Other (describe)		FEMA Spec 1 Flood Hazard Area: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No FEMA Flood Zone: X FEMA Map # 32003C 2195E FEMA Map Date 9/02			
Site Comments: THE HIGHEST AND BEST USE OF THE SUBJECT PROPERTY AS IMPROVED (OR AS PROPOSED PER PLANS AND SPECIFICATIONS, LAND USES, ETC.) IS AS A SINGLE FAMILY RESIDENCE.					
General Description: # of Units: 1 <input type="checkbox"/> Acc. Unit		Exterior Description: Foundation: CONCRETE		Basement: <input checked="" type="checkbox"/> None	
# of Stories: 2		Exterior Walls: STUCCO		Area Sq. Ft. N/A	
Type: <input checked="" type="checkbox"/> Det. <input type="checkbox"/> Att. <input type="checkbox"/>		Roof Surface: TILE		% Finished	
Design (Style): 2-STORY		Gutters & Downspouts: NONE		Ceiling	
<input checked="" type="checkbox"/> Existing <input type="checkbox"/> Proposed <input type="checkbox"/> Unit Cons.		Window Type: DUAL PANE		Walls	
Actual Age (Yrs.): 1		Storm Screens: YES		Floor	
Effective Age (Yrs.): 1				Outside Entry	
Interior Description: Floors: CER/CPT/AVG		Appliances: Refrigerator <input type="checkbox"/> Stairs <input type="checkbox"/> Attic: <input type="checkbox"/> None		Heating: Type: FAU	
Walls: DRYWALL/AVG		Range/Oven: <input checked="" type="checkbox"/> Drop Stair <input type="checkbox"/> Pellet: NONE		Fuel: GAS	
Trim/Finish: PAINT/AVERAGE		Disposal: <input checked="" type="checkbox"/> Scuttle <input checked="" type="checkbox"/> Deck: NONE		Cooling: Central: YES	
Bath Floor: CERAMIC/AVG		Dishwasher: <input checked="" type="checkbox"/> Doorway: COVD		Other: NONE	
Bath Wainscot: FIB/GCER/AVG		Fan/Hood: <input checked="" type="checkbox"/> Floor: FENCE			
Doors: FIB/GCER/AVG		Microwave: <input checked="" type="checkbox"/> Heated: POOL			
		Washer/Dryer: <input type="checkbox"/> Finished: <input type="checkbox"/>			
Finished area above grade contains: 9 Rooms		4 Bedrooms		2.5 Bath(s)	
Additional features: SEE ATTACHED ADDENDA...		2,446 Square Feet of Gross Living Area Above Grade			
Describe the condition of the property (including physical, functional and external obsolescence): THE PROPERTY IS IN OVERALL AVERAGE. NO REPAIRS, RENOVATIONS OR REMODELING NEEDED.					

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**RESIDENTIAL APPRAISAL SUMMARY REPORT**

File #: 081209

My research <input checked="" type="checkbox"/> did <input type="checkbox"/> did not reveal any prior sales or transfers of the subject property for the three years prior to the effective date of this appraisal.				
Data Source(s): <b>MLS/COUNTY RECORDS</b>				
1st Prior Subject Sale/Transfer	Analysis of sale/transfer history and/or any current agreement of sale/listing: <b>THE SUBJECT TRANSFERRED NEW FROM THE DEVELOPER FOR \$381,507 AND CLOSED ESCROW 3/14/07.</b>			
Date: <b>3/14/07</b>				
Price: <b>\$381,507</b>				
Source(s): <b>COUNTY RECORDS</b>				
2nd Prior Subject Sale/Transfer				
Date: <b>NONE</b>				
Price:				
Source(s):				
<b>SALES COMPARISON APPROACH TO VALUE (if developed)</b> <input type="checkbox"/> The Sales Comparison Approach was not developed for this appraisal.				
FEATURE	SUBJECT	COMPARABLE SALE # 1	COMPARABLE SALE # 2	COMPARABLE SALE # 3
Address	<b>6745 COUNCIL HEIGHTS WAY LAS VEGAS, NV 89142</b>	<b>6577 FIELDHOUSE AVENUE APN: 161-03-718-037</b>	<b>6502 AURORA DAWN DRIVE APN: 161-03-619-039</b>	<b>4017 WHISPERING QUAIL CT. APN: 161-15-615-001</b>
Proximity to Subject		<b>0.71 miles NW</b>	<b>1.02 miles NW</b>	<b>1.82 miles SW</b>
Sale Price	<b>\$ 280,000</b>	<b>\$ 233,300</b>	<b>\$ 230,000</b>	<b>\$ 237,000</b>
Sale Price/sq.ft.	<b>\$ 114.47 /sq.ft.</b>	<b>\$ 95.73 /sq.ft.</b>	<b>\$ 93.72 /sq.ft.</b>	<b>\$ 89.27 /sq.ft.</b>
Date Source(s)	<b>INSPECTION</b>	<b>DOC# 20080429-03680/DGSTR</b>	<b>DOC# 20080703-01475/DGSTR</b>	<b>DOC# (NOT AVAILABLE)</b>
Verification Source(s)	<b>COUNTY RECS</b>	<b>MLS# 615331 DOM 107</b>	<b>MLS# 809432 DOM 87</b>	<b>MLS# 836884 DOM 46</b>
VALUE ADJUSTMENTS	DESCRIPTION	DESCRIPTION	DESCRIPTION	DESCRIPTION
Sales or Financing	N/A	FHA	CONV	FHA
Concessions	N/A	\$4,000	NO POINTS	\$6,000
Date of Sale/Time	INSP. 12/06	COE 9/29/06	COE 7/3/06	COE 10/2/06
Rights Appraised	FEE SIMPLE	FEE SIMPLE	FEE SIMPLE	FEE SIMPLE
Location	AVERAGE	AVERAGE	AVERAGE	AVERAGE
Site	5,016 SQ.FT.	7,004 SQ.FT.	6,504 SQ.FT.	8,276 SQ.FT.
View	RESIDENTIAL	RESIDENTIAL	RESIDENTIAL	RESIDENTIAL
Design (Style)	2-STORY	2-STORY	2-STORY	2-STORY
Quality of Construction	AVERAGE	AVERAGE	AVERAGE	AVERAGE
Age	1	10	10	3
Condition	AVERAGE	AVERAGE	AVERAGE	AVERAGE
Above Grade	Total Bdrms Baths	Total Bdrms Baths	Total Bdrms Baths	Total Bdrms Baths
Room Count	9 4 2.5	7 4 2.5	9 5 3	9 4 3
Gross Living Area	2,446 sq.ft.	2,437 sq.ft.	2,454 sq.ft.	2,655 sq.ft.
Basement & Finished	N/A	N/A	N/A	N/A
Rooms Below Grade	N/A	N/A	N/A	N/A
Functional Utility	AVERAGE	AVERAGE	AVERAGE	AVERAGE
Heating/Cooling	FAUCENTRAL	FAUCENTRAL	FAUCENTRAL	FAUCENTRAL
Energy Efficient Home	STANDARD	STANDARD	STANDARD	STANDARD
Garage/Carport	3-GARAGE	3-GARAGE	3-GARAGE	2-GARAGE
Porch/Patio/Deck	PCH/PAT/L/S	PCH/PAT/L/S	PCH/PAT/L/S	PCH/PAT/L/S
Net Adjustment (Total)	<input checked="" type="checkbox"/> + <input type="checkbox"/> - \$ 2,000	<input type="checkbox"/> + <input type="checkbox"/> - \$	<input type="checkbox"/> + <input type="checkbox"/> - \$	<input type="checkbox"/> + <input checked="" type="checkbox"/> - \$ -5,000
Adjusted Sale Price of Comparables	Net 0.9% Gross 2.6% \$ 235,300	Net % Gross 3.5% \$ 230,000	Net 2.1% Gross 6.3% \$ 232,000	
Summary of Sales Comparison Approach <b>ALL SALES ARE 2-STORY, SIMILAR QUALITY CONSTRUCTION LOCATED IN THE SUBJECT SUBMARKET. ALL ARE SUPERIOR TO SUBJECT DUE TO SITE SIZE. SALES 1 AND 2 ARE INFERIOR DUE TO AGE. SALES 2 AND 3 ARE ALSO SUPERIOR DUE TO NUMBER OF BATHS. SALE 3 IS INFERIOR DUE TO PARKING FACILITIES. SEE ATTACHED ADDENDA...</b>				
Indicated Value by Sales Comparison Approach \$ <b>232,000</b>				

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**RESIDENTIAL APPRAISAL SUMMARY REPORT**

File No.: 081209

COST APPROACH	<b>COST APPROACH TO VALUE (if developed)</b> <input checked="" type="checkbox"/> The Cost Approach was not developed for this appraisal.		Provide adequate information for replication of the following cost figures and calculations:	
	Support for the opinion of site value (summary of comparable land sales or other methods for estimating site value): <u>N/A</u>			
INCOME APPROACH	<b>ESTIMATED</b> <input type="checkbox"/> <b>REPRODUCTION OR</b> <input type="checkbox"/> <b>REPLACEMENT COST NEW</b>		<b>OPINION OF SITE VALUE</b> = \$	
	Source of cost data:		<b>DWELLING</b> Sq.Ft. @ \$ = \$	
	Quality rating from cost service: Effective date of cost data:		Sq.Ft. @ \$ = \$	
	Comments on Cost Approach (gross living area calculations, depreciation, etc.):		Sq.Ft. @ \$ = \$	
			Sq.Ft. @ \$ = \$	
			Sq.Ft. @ \$ = \$	
			Sq.Ft. @ \$ = \$	
			Sq.Ft. @ \$ = \$	
			Sq.Ft. @ \$ = \$	
			Sq.Ft. @ \$ = \$	
PUD	Estimated Monthly Market Rent \$ <u>N/A</u> X Gross Rent Multiplier = \$		Indicated Value by Income Approach	
	Summary of Income Approach (including support for market rent and GRM):			
RECONCILIATION	<b>PROJECT INFORMATION FOR PUDs (if applicable)</b> <input checked="" type="checkbox"/> The Subject is part of a Planned Unit Development.			
	Legal Name of Project: <u>QUARRY</u>			
	Describe common elements and recreational facilities: <u>GREEN-BELT AREAS, PARK</u>			
ATTACHMENTS	Indicated Value by: Sales Comparison Approach \$ <u>232,000</u> Cost Approach (if developed) \$ <u>N/A</u> Income Approach (if developed) \$ <u>N/A</u>			
	Final Reconciliation: <u>THE SALES COMPARISON APPROACH BEST INDICATES MARKET VALUE AS DESCRIBED IN THE REPORT.</u>			
SIGNATURES	This appraisal is made <input checked="" type="checkbox"/> "as is", <input type="checkbox"/> subject to completion per plans and specifications on the basis of a Hypothetical Condition that the improvements have been completed, <input type="checkbox"/> subject to the following repairs or alterations on the basis of a Hypothetical Condition that the repairs or alterations have been completed, <input type="checkbox"/> subject to the following required inspection based on the Extraordinary Assumption that the condition or deficiency does not require alteration or repair: <u>Subject is marketable "as is" and no repairs or alterations are required. See attached addenda.</u>			
	This report is also subject to other Hypothetical Conditions and/or Extraordinary Assumptions as specified in the attached addenda.			
	Based on the degree of inspection of the subject property, as indicated below, defined Scope of Work, Statement of Assumptions and Limiting Conditions, and Appraiser's Certifications, my (our) Opinion of the Market Value (or other specified value type), as defined herein, of the real property that is the subject of this report is: \$ <u>232,000</u> , as of: <u>DECEMBER 29, 2008</u> , which is the effective date of this appraisal.			
	If indicated above, this Opinion of Value is subject to Hypothetical Conditions and/or Extraordinary Assumptions included in this report. See attached addenda.			
	A true and complete copy of this report contains <u>  </u> pages, including exhibits which are considered an integral part of the report. This appraisal report may not be properly understood without reference to the information contained in the complete report.			
	Attached Exhibits:			
	<input checked="" type="checkbox"/> Scope of Work <input checked="" type="checkbox"/> Limiting Cond./Certifications <input checked="" type="checkbox"/> Narrative Addendum <input checked="" type="checkbox"/> Photograph Addenda <input checked="" type="checkbox"/> Sketch Addendum <input checked="" type="checkbox"/> Map Addenda <input type="checkbox"/> Additional Sales <input type="checkbox"/> Cost Addendum <input type="checkbox"/> Flood Addendum <input type="checkbox"/> Manuf. House Addendum <input type="checkbox"/> Hypothetical Conditions <input type="checkbox"/> Extraordinary Assumptions <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>			
	Client Contact: <u>  </u>		Client Name: <u>EARL FARINAS</u>	
	E-Mail: <u>  </u>		Address: <u>6745 COUNCIL HEIGHTS WAY, LAS VEGAS, NV 89142</u>	
	APPRaiser		SUPERVISORY APPRAISER (if required) or CO-APPRAISER (if applicable)	
<i>(Trista Cater)</i> Appraiser Name: <u>TRISTA CATER</u> Company: <u>C &amp; R APPRAISAL COMPANY</u> Phone: <u>702-278-6099</u> Fax: <u>  </u> E-Mail: <u>TRISTAC@COX.NET</u> Date of Report (Signature): <u>JANUARY 5, 2009</u> License or Certification #: <u>A0001127-RES</u> State: <u>NV</u> Designation: <u>LICENSED RESIDENTIAL APPRAISER</u> Expiration Date of License or Certification: <u>6/30/2009</u> Inspection of Subject: <input checked="" type="checkbox"/> Interior & Exterior <input type="checkbox"/> Exterior Only <input type="checkbox"/> None Date of Inspection: <u>DECEMBER 29, 2008</u>		Supervisory or Co-Appraiser Name: <u>  </u> Company: <u>  </u> Phone: <u>  </u> Fax: <u>  </u> E-Mail: <u>  </u> Date of Report (Signature): <u>  </u> License or Certification #: <u>  </u> State: <u>  </u> Designation: <u>  </u> Expiration Date of License or Certification: <u>  </u> Inspection of Subject: <input type="checkbox"/> Interior & Exterior <input type="checkbox"/> Exterior Only <input type="checkbox"/> None Date of Inspection: <u>  </u>		

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**Assumptions, Limiting Conditions & Scope of Work**

File No: 081209

Property Address: 6745 COUNCIL HEIGHTS WAY

City: LAS VEGAS

State: NV

Zip Code: 89142

Client: EARL FARINAS

Address: 6745 COUNCIL HEIGHTS WAY, LAS VEGAS, NV 89142

Appraiser: TRISTA CATER

Address:

**STATEMENT OF ASSUMPTIONS & LIMITING CONDITIONS**

- The appraiser will not be responsible for matters of a legal nature that affect either the property being appraised or the title to it. The appraiser assumes that the title is good and marketable and, therefore, will not render any opinions about the title. The property is appraised on the basis of it being under responsible ownership.
- The appraiser may have provided a sketch in the appraisal report to show approximate dimensions of the improvements, and any such sketch is included only to assist the reader of the report in visualizing the property and understanding the appraiser's determination of its size. Unless otherwise indicated, a Land Survey was not performed.
- If so indicated, the appraiser has examined the available flood maps that are provided by the Federal Emergency Management Agency (or other data sources) and has noted in the appraisal report whether the subject site is located in an identified Special Flood Hazard Area. Because the appraiser is not a surveyor, he or she makes no guarantees, express or implied, regarding this determination.
- The appraiser will not give testimony or appear in court because he or she made an appraisal of the property in question, unless specific arrangements to do so have been made beforehand.
- If the cost approach is included in this appraisal, the appraiser has estimated the value of the land in the cost approach at its highest and best use, and the improvements at their contributory value. These separate valuations of the land and improvements must not be used in conjunction with any other appraisal and are invalid if they are so used. Unless otherwise specifically indicated, the cost approach value is not an insurance value, and should not be used as such.
- The appraiser has noted in the appraisal report any adverse conditions (including, but not limited to, needed repairs, depreciation, the presence of hazardous wastes, toxic substances, etc.) observed during the inspection of the subject property, or that he or she became aware of during the normal research involved in performing the appraisal. Unless otherwise stated in the appraisal report, the appraiser has no knowledge of any hidden or unapparent conditions of the property, or adverse environmental conditions (including, but not limited to, the presence of hazardous wastes, toxic substances, etc.) that would make the property more or less valuable, and has assumed that there are no such conditions and makes no guarantees or warranties, express or implied, regarding the condition of the property. The appraiser will not be responsible for any such conditions that do exist or for any engineering or testing that might be required to discover whether such conditions exist. Because the appraiser is not an expert in the field of environmental hazards, the appraisal report must not be considered as an environmental assessment of the property.
- The appraiser obtained the information, estimates, and opinions that were expressed in the appraisal report from sources that he or she considers to be reliable and believes them to be true and correct. The appraiser does not assume responsibility for the accuracy of such items that were furnished by other parties.
- The appraiser will not disclose the contents of the appraisal report except as provided for in the Uniform Standards of Professional Appraisal Practice, and any applicable federal, state or local laws.
- If this appraisal is indicated as subject to satisfactory completion, repairs, or alterations, the appraiser has based his or her appraisal report and valuation conclusion on the assumption that completion of the improvements will be performed in a workmanlike manner.
- An appraiser's client is the party (or parties) who engage an appraiser in a specific assignment. Any other party acquiring this report from the client does not become a party to the appraiser-client relationship. Any persons receiving this appraisal report because of disclosure requirements applicable to the appraiser's client do not become intended users of this report unless specifically identified by the client at the time of the assignment.
- The appraiser's written consent and approval must be obtained before this appraisal report can be conveyed by anyone to the public, through advertising, public relations, news, sales, or by means of any other media, or by its inclusion in a private or public database.
- An appraisal of real property is not a 'home inspection' and should not be construed as such. As part of the valuation process, the appraiser performs a non-invasive visual inventory that is not intended to reveal defects or detrimental conditions that are not readily apparent. The presence of such conditions or defects could adversely affect the appraiser's opinion of value. Clients with concerns about such potential negative factors are encouraged to engage the appropriate type of expert to investigate.

The Scope of Work is the type and extent of research and analyses performed in an appraisal assignment that is required to produce credible assignment results, given the nature of the appraisal problem, the specific requirements of the intended user(s) and the intended use of the appraisal report. Reliance upon this report, regardless of how acquired, by any party or for any use, other than those specified in this report by the Appraiser, is prohibited. The Opinion of Value that is the conclusion of this report is credible only within the context of the Scope of Work, Effective Date, the Date of Report, the Intended User(s), the Intended Use, the stated Assumptions and Limiting Conditions, any Hypothetical Conditions and/or Extraordinary Assumptions, and the Type of Value, as defined herein. The appraiser, appraisal firm, and related parties assume no obligation, liability, or accountability, and will not be responsible for any unauthorized use of this report or its conclusions.

Additional Comments (Scope of Work, Extraordinary Assumptions, Hypothetical Conditions, etc.):



**File No.: 081208**

**GP RESIDENTIAL**

**General Text Addendum**

File No. 061209

Borrower/Client	N/A				
Property Address	6745 COUNCIL HEIGHTS WAY				
City	LAS VEGAS	County	CLARK	State	NV Zip Code 89142
Client	EARL FARINAS				

**• URAR: Additional Features**

Concrete driveway and sidewalks, blockwall fencing, covered porch, front and rear yard landscaping with sprinklers, security doors, shutters, textured walls and ceilings, granite countertops in kitchen, ceramic tile countertops in baths.

**• URAR: Neighborhood Market Factors**

Las Vegas has a tourist-based economy. The service industry, which includes hotels, gaming, and recreation, accounts for over 30% of the employment within the city. Nellis Air Force Base, the Nevada Test Site, and several industrial and manufacturing plants are other main sources of employment. Also included are the secondary levels of support employment that are typical for a community with the size and population of the Las Vegas area. Growth in the Las Vegas valley remains constant adding to employment stability, and in turn, adding to the city's appeal.

Most of the competition for the subject will come from new tract development. Due to the tremendous growth in the Las Vegas Valley, new development will directly compete with both existing and other new development. The subject neighborhood is consistent with other competitive neighborhoods within the Las Vegas Valley and demonstrates a similar overall marketability to those areas.

**• URAR: Sales Comparison Comments**

After all adjustments were made, a reasonable range of indicated values was found. None of the sales stands well alone as an indicator of value, but collectively they support each other and the value conclusion. Gross and net percentage adjustments are small and attest to the comparability of the sales.

This submarket was searched extensively and the comparable sales selected are considered the most similar to the subject in the current time frame. Any comparable which sold/closed escrow more than six months from the date of inspection was used due to a lack of any better/more recent sales in this submarket. Furthermore, any dated sale used is still a reliable indicator of current market value. All of the comparable sales are from within the subject subdivision or from the most proximate competing market areas. All line item adjustments are either market extracted and represent what informed purchasers are willing to pay for those items, or, when ideal "matched pair" sales are unavailable and no market extraction is possible, adjustments are derived from the cost new of the item, less all forms of depreciation. No value has been assigned to any personal property or any fixture not permanently attached.

In order to develop a reasonable analysis for the value of the property, a review of sales data from several sources was conducted. This investigation included the Multiple Listing Service as well as the county records and appraiser's files. Competing listings were also reviewed to determine the current competition and establish the upper limits of value in this submarket. The information provided herein is deemed to be accurate based on the sources cited.

**• URAR: Final Reconciliation**

Greatest weight has been placed on the Sales Comparison Analysis as the actions of buyers and sellers are reflected therein. The Cost Approach gives added support of the value conclusion indicated by the Sales Comparison Approach. There is insufficient rental data to produce consistent conclusions about market rent and gross rent multipliers and, therefore, the Income Approach was omitted. I am aware of the changes made by USPAP to the appraiser's certification and will abide by those changes. I have no bias in respect to the subject property.

**Additional Comments:**

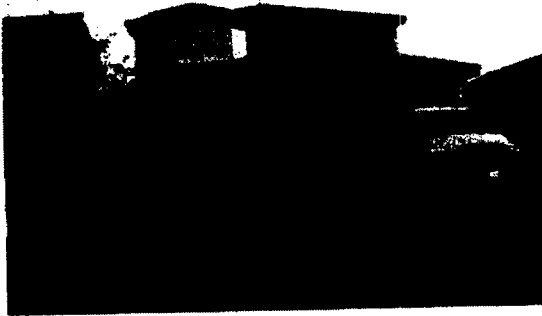
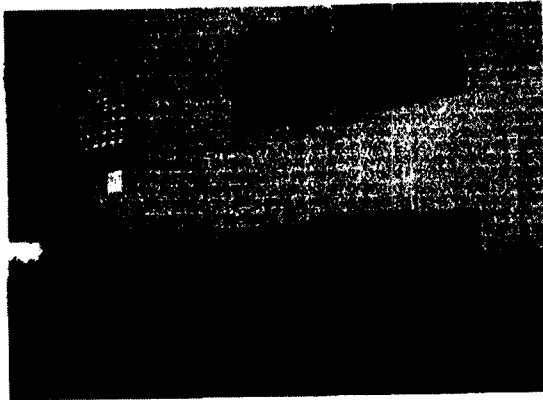
All electronic signatures on this report have a security feature maintained by individual passwords for each signing appraiser. No person can alter the appraisal with the exception of the original signing appraiser(s).

**Subject Photos**

Borrower/Client	N/A				
Property Address	6745 COUNCIL HEIGHTS WAY				
City	LAS VEGAS	County	CLARK	State	NV Zip Code 89142
Client	EARL FARINAS				

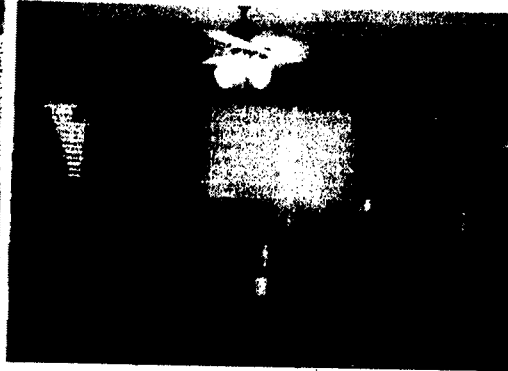
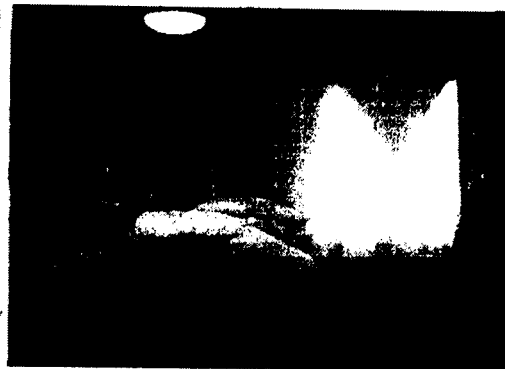
**Subject Front**

6745 COUNCIL HEIGHTS WAY

**Subject Rear****Subject Street**

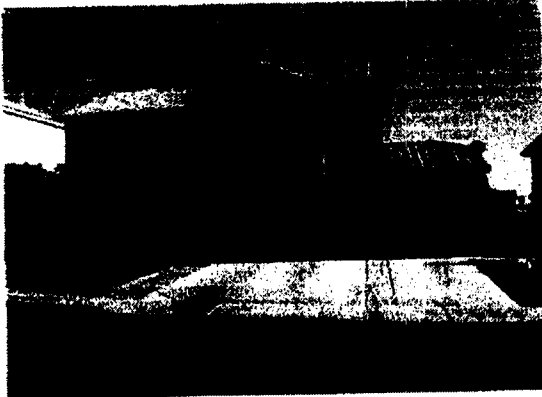
**Photograph Addendum**

Borrower/Client	N/A				
Property Address	6745 COUNCIL HEIGHTS WAY				
City	LAS VEGAS	County	CLARK	State	NV
Client	EARL FARINAS			Zip Code	89142

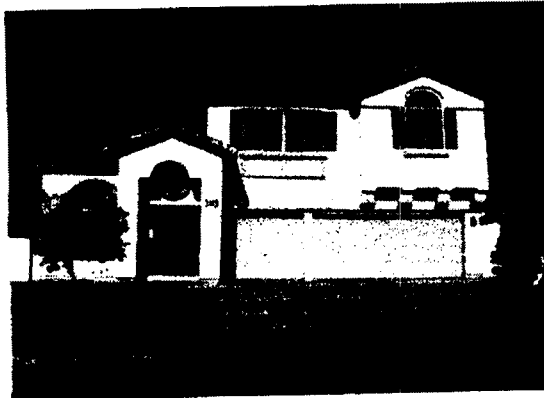
**FAMILY ROOM****LIVING ROOM****KITCHEN****MASTER****BEDROOM****BEDROOM**

**Comparable Photos ##**

Borrower/Client	N/A				
Property Address	6745 COUNCIL HEIGHTS WAY				
City	LAS VEGAS	County	CLARK	State	NV Zip Code 89142
Client	EARL FARINAS				



**Comparable 1**  
6577 FIELDMOUSE AVENUE



**Comparable 2**  
6502 AURORA DAWN DRIVE

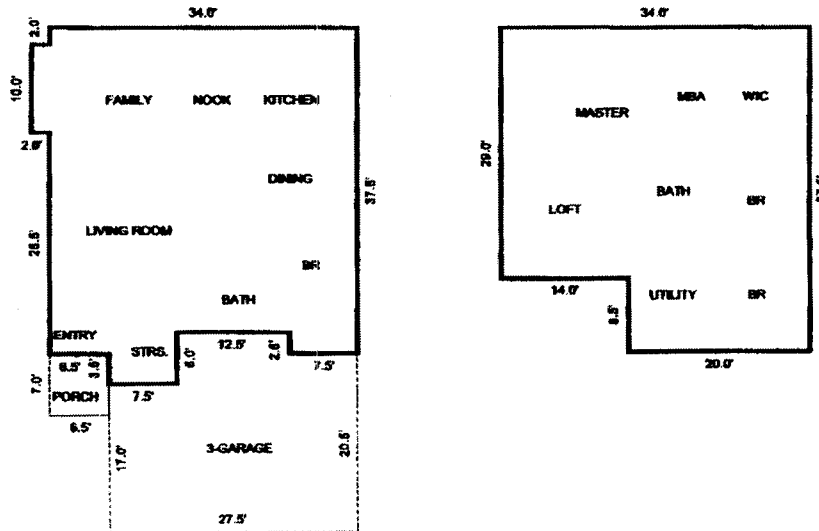


**Comparable 3**  
4017 WHISPERING QUAIL CT.



**Building Sketch**

Berthold/Client	N/A			
Property Address	6745 COUNCIL HEIGHTS WAY			
City	LAS VEGAS	County	CLARK	State NV Zip Code 89142
Client	EARL FARINAS			



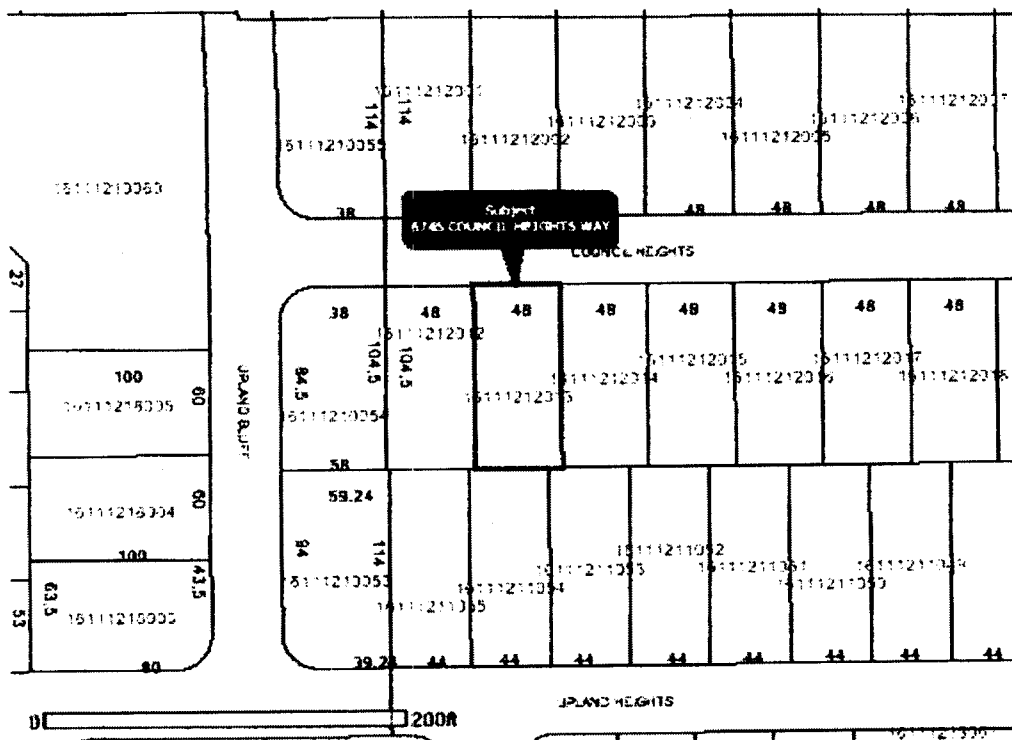
Sketch by Ryan W  
Comments:

AREA CALCULATIONS SUMMARY			
Code	Description	Sq	Net Totals
GRA1	First Floor	1290.00	1290.00
GRA2	Second Floor	1156.00	1156.00
P/P	Porch	45.50	45.50
GAR	Garage	568.75	568.75
TOTAL LIVABLE (rounded)			2446

LIVING AREA BREAKDOWN		
Breakdown	Subtotals	
First Floor		
2.0 x 10.0	20.00	
7.5 x 41.0	307.50	
20.0 x 35.0	700.00	
6.5 x 37.5	243.75	
2.5 x 7.5	18.75	
Second Floor		
29.0 x 34.0	986.00	
8.5 x 20.0	170.00	
7 Calculations Total (rounded)	2446	

**Plat Map**

Borrower/Client	N/A				
Property Address	6745 COUNCIL HEIGHTS WAY				
City	LAS VEGAS	County	CLARK	State	NV
Client	EARL FARINAS	Zip Code	89142		



## Location Map

Borrower/Client	N/A
Property Address	6745 COUNCIL HEIGHTS WAY
City	LAS VEGAS
County	CLARK
State	NV
Zip Code	89142
Client	EARL FARINAS



## LICENSE

## APPRAISER LICENSE

STATE OF NEVADA DEPARTMENT OF BUSINESS AND INDUSTRY  
 NOT TRANSFERABLE REAL ESTATE DIVISION NOT TRANSFERABLE

This is to certify that IRIS TARCANTER License Number: V0001127-R1-S

Is duly authorized to act as a LICENSED REAL ESTATE APPRAISER From the issue date to the expiration date at the business address stated here on, unless the license is sooner renewed, cancelled, withdrawn, or invalidated.

Issue Date: July 13, 2007

Expiry Date: June 30, 2010

In witness whereof, THE DEPARTMENT OF BUSINESS AND INDUSTRY, REAL ESTATE DIVISION, in virtue of the authority vested in it by a higher body of the Nevada Revised Statutes has caused this license to be issued with its Seal printed thereon. This license must be conspicuously displayed in plain view in business.

FOR: IRIS TARCANTER & ASSOCIATES, INC. REAL ESTATE DIVISION  
 6808 HAVEN CIRCLE, SUITE 100  
 LAS VEGAS, NV 89120

CAROL A. ANDERSON  
*Commissioner*

